उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A. 887 सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL NO. 887/2005

APPELLANT Raju Tiwari, S/o. Lakhan Prasad Tiwari, age 38 years, R/o. Village Nayapara, Balod, Distt. Durg (C.G.)
Non-claimant No.1

VERSUS

RESPONDENTS : 1. Jalil Khan S/o. Samful Khan, Caste-Musalman, age 70 years,
Claimants

2. Allauddin S/o. Jalil Khan, Caste-Musalman, age 22 years.

All are resident village Sanjaynagar, Balod, Tahsil-Balod, Distt. Durg (C.G.)

RESPONDENT 3. Branch Manager, The Oriental Insurance Company Limited, Branch-Power House, Bhilai, Distt. Durg (C.G.)
Non-Claimant No.2

Present: Mr. Rajeev Shrivastava with Mr. I.S. Sahu, counsel for the appellant.
Ms. Chitra Shrivastava, counsel for the respondent No. 3/Insurance Company.

O R D E R
(02nd May 2007)

Dhirendra Mishra, J

The appellant, owner of the vehicle No. C.G.07/C 0/1471, has preferred this appeal against the award dated 30th April 2005 passed in claims case No. 57/2004 by Additional Motor Accident Claims Tribunal, Balod whereby the learned claims Tribunal has

GRPRJ — FS/246— 2/2007 — 50,000.

मामला क्रमांक M.A. 897 सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

awarded a sum of Rs.1,00,000/- as compensation to respondents No. 1 and 2 for the death of daughter of respondent No.1 namely Samaniya Begum, who died on 28.3.2004 in a road accident involving matador belonging to the appellant.

Learned Tribunal has exonerated the respondent No.3/insurer of the vehicle on the ground that vehicle was being driven in breach of insurance policy conditions.

Learned counsel for the appellant submits that the above finding of learned Tribunal recorded in paragraph 11 of the impugned award that vehicle in question was being driven in breach of insurance policy conditions, is contrary to the evidence available on record since the vehicle was insured at the relevant time with respondent No.3, the liability ought to have been fastened upon respondent No.3/insurer.

On the other hand, Ms. Chitra Shrivastava, learned counsel appearing on behalf of respondent No.3/insurance company submits that learned Tribunal on the basis of admission of the appellant himself has reached the conclusion that vehicle which was registered as a public goods carrier having the capacity for only one plus two, was carrying passengers in the vehicle in breach of insurance policy conditions and considering this admission, the Tribunal has exonerated the insurance company from satisfying the award, which cannot be faulted.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक M.A. 887 **सन्** 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

I have heard learned counsel for the respective parties and have gone through the impugned award as also the evidence available on record.

From perusal of the statement on oath of the appellant, it is seen that he has admitted that vehicle was registered as light goods carrying vehicle by R.T.O. Durg, he is the registered owner of the vehicle and he was aware of the fact that passengers were sitting on the back side of the vehicle and he was going to Dongargarh for *Devi Darshan* with those passengers. He also admitted that he recognizes three-four passengers who were occupying the vehicle at the time of accident and the accident occurred while they were returning from Dongargarh and at that time 25-30 passengers were sitting in the vehicle.

Therefore, from the above admission of the appellant and other documentary and oral evidence on record, it is not in dispute that the vehicle was registered as light goods carrying vehicle for commercial purposes and the policy conditions allows the driver and two others to travel by that vehicle whereas at the time of accident the same was being used in breach of insurance policy conditions.

In the result, the appeal being devoid of substance is liable to be dismissed and is accordingly, dismissed.

Sd/-
DHIRENDRA MISHRA
Judge

RJ

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